

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GWENDOLYN FISH, Administrator,)	
the Estate of JAMES WILKINS, SR.,)	
Plaintiff)	
)	
vs.)	Civil Action No. 08-919
)	Judge Gary L. Lancaster/
UNITED STATES OF AMERICA,)	Magistrate Judge Amy Reynolds Hay
Defendant)	

MEMORANDUM ORDER

On July 8, 2008, this case was referred to United States Magistrate Judge Amy Reynolds Hay for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.


On March 16, 2009, the Magistrate Judge issued a Report and Recommendation (Doc. 18) recommending that the Partial Motion to Dismiss the Complaint (Doc. 11), filed by the Defendants, the United States, of America, be granted as to the personal injury claim filed under the Federal Tort Claims Act. The Magistrate Judge found that because administrative remedies had not been exhausted with respect to this claim, the Court lacked jurisdiction to hear it.

Service of the Report and Recommendation was made on the parties. The Plaintiff filed Objections (Doc. 19) on April 2, 2009. These Objections reiterated the arguments made in the Plaintiff's Opposition to the Partial Motion to Dismiss, and rejected by the Magistrate Judge. A Response to the Objections was filed on April 10, 2009 (Doc. 20).

After a review of the pleadings and documents in the case, together with the Report and Recommendation, the Objections and the Response to Objections, the following ORDER is entered:

AND NOW, this 18 day of April, 2009, IT IS HEREBY ORDERED that the Defendant's Partial Motion to Dismiss (Doc. 11) is GRANTED. The Plaintiff failed to exhaust administrative remedies with respect to personal injury claim. That claim is now time barred., and must be dismissed for lack of jurisdiction.

The Report and Recommendation of Magistrate Judge Amy Reynolds Hay dated March 16, 2009 (Doc. 18) is hereby adopted as the opinion of the Court.



Gary L. Lancaster
United States District Judge

cc: Amy Reynolds Hay

Counsel of Record
Via CM-ECF